

Applicant: Steven Jeffrey Goldberg
Application No.: 10/731,653

REMARKS

Claims 1-32 are pending in this application. Claim 9 has been amended to correct a minor typographical error. No new matter has been added.

Claims 1-32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. 2005/0118959 to Johan et al. (hereinafter "Johan") in view of some combination of U.S. Patent No. 6,925,301 to Hill (hereinafter "Hill"), U.S. Patent Application No 2004/0192290 to Muthuswamy et al. (hereinafter "Muthuswamy"), and other well known prior art.

A. The References do not Teach or Suggest the Claimed Invention

Independent claims 1, 4-9, 18, and 27 have all be rejected as obvious over the combination of Johan in view of Hill.

Johan discloses determining the optimum modulation scheme by measuring the link quality of a first modulation scheme and then estimating the link quality of a second modulation scheme based on the measured link quality of the first modulation scheme. Johan further discloses that a link quality enhancing algorithm may be applied to a specific modulation scheme, and that the mobile unit may determine the performance gain due to the link quality enhancing algorithm.

The Applicant does not suggest that measuring the performance gain of a performance enhancement is novel. Rather, the Applicant submits that measuring the performance gain of a performance enhancement and displaying it to the end

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user is novel. Johan uses the measured performance gain in order to estimate the link quality of a second modulation scheme. Johan does not display the performance gain to the end user.

Hill provides a method of remotely displaying an estimate of the functionality of an amplifier situated adjacent to a receiver antenna in a base station. The amplifier would be located at the top of a tower from a base station, and the display would be located inside the base station (Figure 1, Column 2, line 67 – Column 3, line 10). The functionality information measured in Hill is used by a technician in analyzing and maintaining the network (Column 1, lines 45-65).

Hill does not teach displaying the amplifier functionality to a user on a WTRU display. Nor does Hill teach displaying the gain achieved by activating a performance enhancement to a user on a WTRU display. In fact, Hill only teaches displaying information in a remote location from the measurement device, to a network technician. The display in Hill is fundamentally different than the display in the present invention.

Accordingly, the combination of Johan and Hill would not lead one of skill in the art to the invention in independent claims 1, 4-9, 18, and 27.

Claims 2, 3, 10-17, 19-26, and 28-32 depend on claims 1, 4-9, 18 and 27, and are patentable over Johan and Hill for the same reasons stated above.

B. The Invention is not Obvious due to Secondary Considerations.

The present invention creates a solution to “long felt but unsolved needs” associated with developing, marketing, and implementing performance enhancements. In evaluating an obviousness rejection, an indication of non-obviousness may be shown by a “long felt but unsolved need.” *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966). Since the beginning of the wireless communications industry, manufacturers have invested significant amounts of money into the development of technologies that will enhance the performance of WTRUs. However, many of these developments go unnoticed or unrealized by the user. The industry has not received a full return on the investment of developing performance enhancements because some users are unwilling to continue to pay for enhancements that are not easily noticeable. Accordingly, there has been a long felt and unsolved need to justify, in the minds of the users, the costs associated with a particular enhancement technology.

The present invention demonstrates to users that a WTRU having a particular enhancement technology provides superior performance over a WTRU without such technology. In practice, users that are aware of the benefits of a particular technology will be more willing to pay for the technology, and users without the technology will be more willing to invest in a service or WTRU capable of utilizing the enhancing technology.

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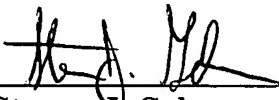
Accordingly, the present invention provides a solution to a long felt but unsolved need in the telecommunications industry and is separately patentable over all of the prior art.

Based on the above remarks, it is respectfully submitted that pending claims 1-32 are in condition for allowance. Accordingly, entry of this amendment as well as reconsideration and allowance of pending claims 1-32 are respectfully requested.

If the Examiner does not believe that the claims are in condition for allowance, the Examiner is respectfully requested to contact the undersigned at 215-568-6400.

Respectfully submitted,

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